IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR
BENCH, JAIPUR.

O R D E R

CTO, Special Circle, Ajmer Vs. M/s. Shree Cement Ltd.

(S.B. Sales Tax Revision No.487/1999)

Date of Order : May 04, 2007.

P R E S E N T

HON'BLE DR.JUSTICE VINEET KOTHARI

Mr. Vinay Goyal for the Revenue.
Mr. Vivek Singhal for the assessee.

BY THE COURT:

This revision petition at the instance of Revenue is directed against the order dated 20.3.1998 of the Tax Board holding that additional tax could not be charged from the selling dealer, the respondent assessee if the sale made by them against Form No.ST 17 was against the defective declaration in Form No.ST 17 supplied by the purchasing dealer.

Learned counsel for the respondent assessee Mr. Singhal has pointed out that learned DC (Appeals) himself has recorded the finding in this matter which has been quoted by the Tax Board also in the impugned order that in the present case the Assessing Authority had assessed the purchasing dealer in respect of the difference tax on 16.4.1994 in respect of the defective declaration forms in ST 17. He, therefore, submitted that there was no question of collecting any additional tax from the selling dealer also as there cannot double taxation in respect of the same sale transaction.

This being a finding of fact given by the two authorities below which cannot be interferred in revisional jurisdiction by this Court, therefore, without going into the controversy as to whether in cases of sales made against defective declarations in Form No.ST 17 selling dealer would be liable to pay the additional tax or the purchasing dealer who furnishes such ST Form No.17, this revision petition deserves to be dismissed in view of the finding of fact arrived at by the two authorities below that such additional tax had already been assessed against the purchasing dealer. The pressing of claim of Revenue against the selling dealer respondent assessee thus becomes infructuous.

In view of the aforesaid finding of fact by the two authorities below, this revision petition is dismissed with no order as to costs.

(Dr.VINEET KOTHARI),J.

VS/